

COMMITTEE ON VETERANS AND MILITARY AFFAIRS,  
BIOTECHNOLOGY and FINANCIAL INSTITUTIONS

January 10, 2008

Good afternoon Chairman Sullivan and members of the Committee on Veterans and Military Affairs, Biotechnology and Financial Institutions. I am Larry Olson the Executive Assistant at the Department of Military Affairs.

Brig Gen Dunbar passes on his thanks for the support this committee provides to all our Wisconsin service members and veterans.

With me today are members of our legal staff, LtCol Julio Barron, Maj David Dziobkowski, and Randi Milsap.

The re-codification process started on September 7, 2006 with the Legislative Council forming the Special Committee on Recodification of Chapter 21, Military Affairs. Many thanks to the members of this committee both legislative and public and to the support staff that keep us on track. Special thanks to Representative Schneider who personally attended a majority of the meetings and provided his insight and historical background on numerous occasions.

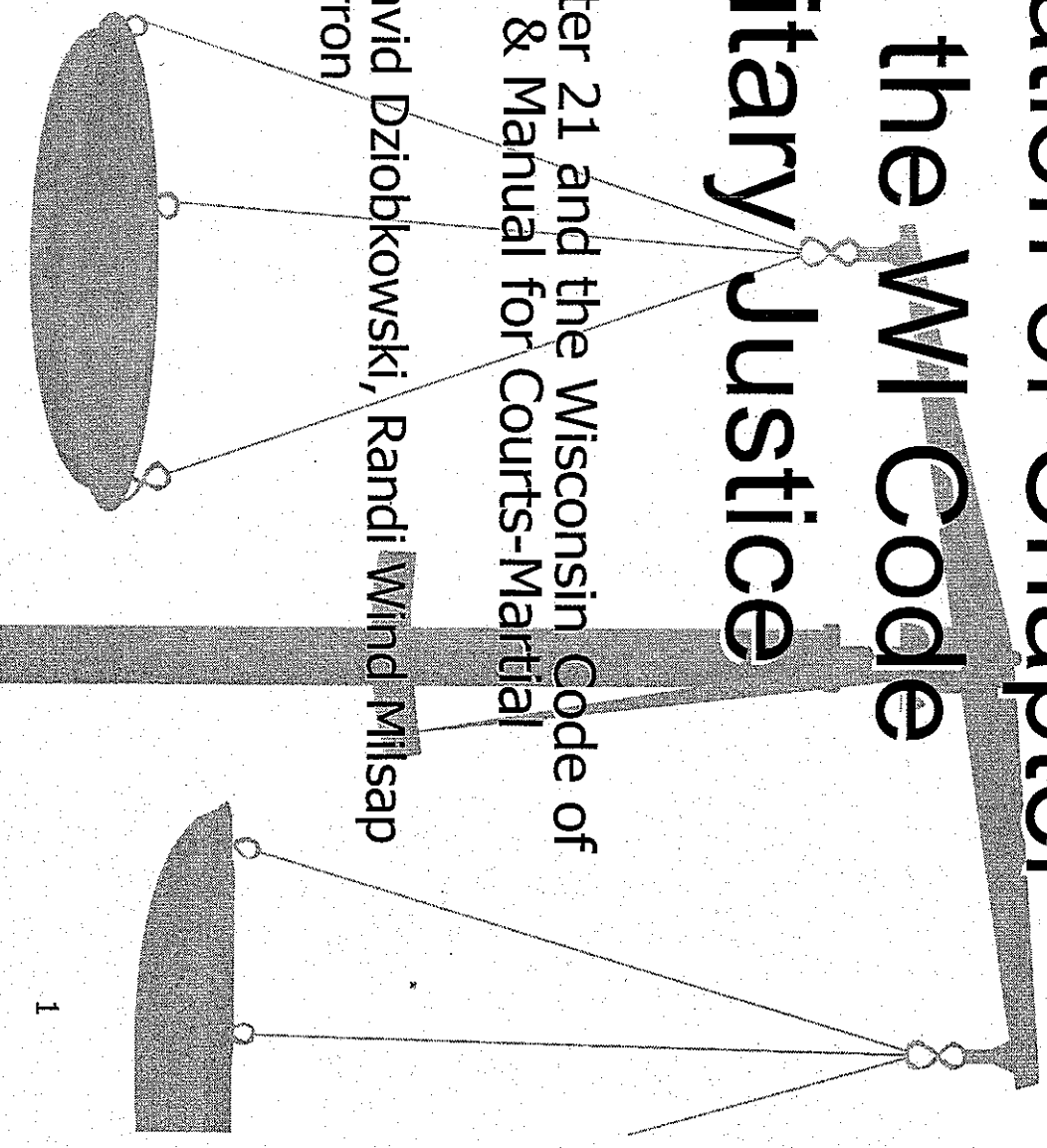
Council staff attorneys Ms. Pam Shannon and Mr. Dick Sweet prepared Committee report No. 18 in early June and the Chair of the Special Committee; Representative Musser presented the report to the Joint Legislative Council on June 12, 2007.

On June 14, Joint Legislative Council introduced AB 400. Again thanks to Co-Chairs Senator Risser and Representative Wieckert, and all of the members and staff of the Joint Legislative Council and a special thanks to the staff from Legislative Reference Bureau who were with us at every meeting.

# Recodification of Chapter 21 and the WI Code of Military Justice

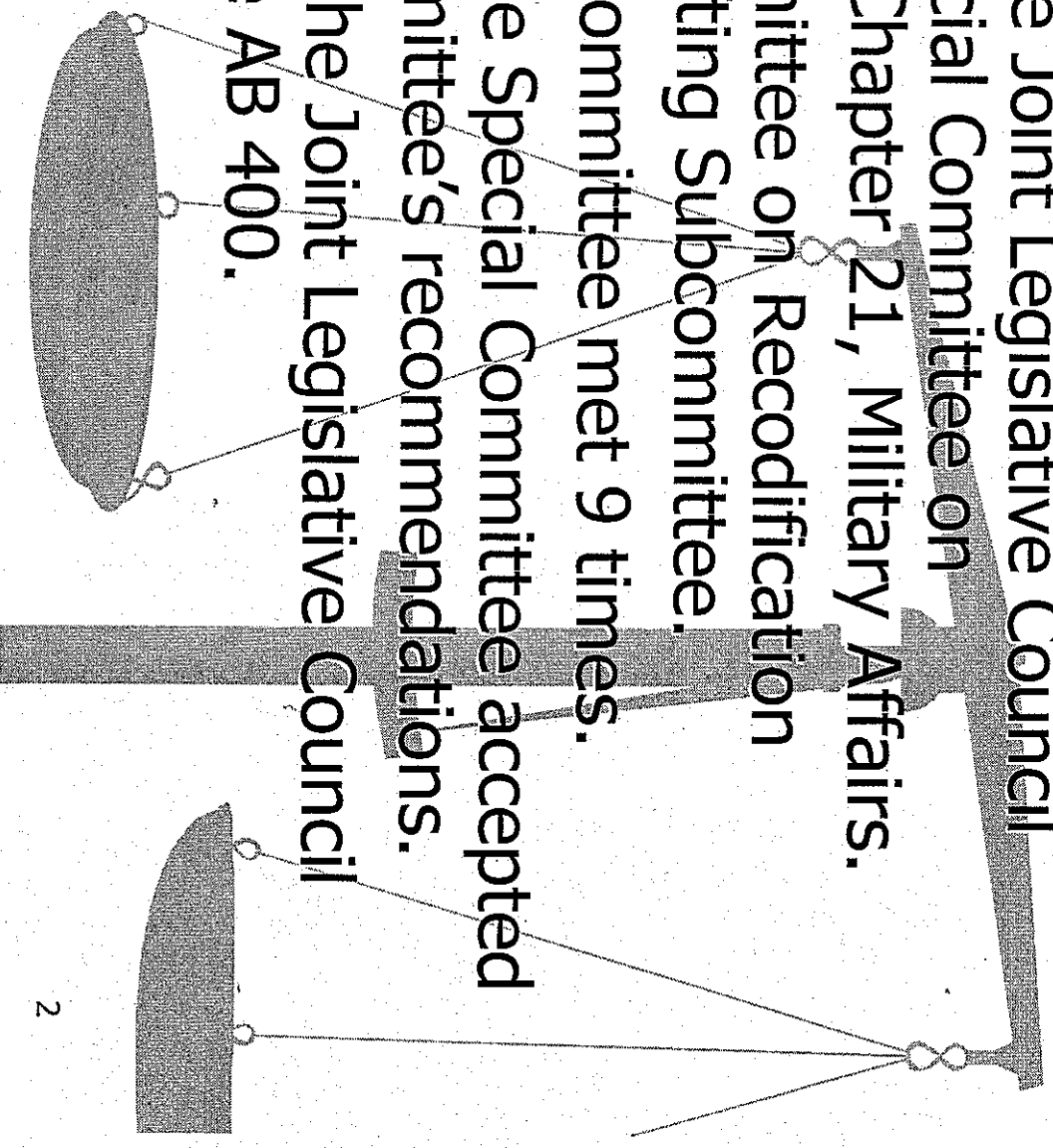
Transforming Chapter 21 and the Wisconsin Code of  
Military Justice & Manual for Courts-Martial

Larry L. Olson, Maj David Dziobkowski, Randi Wind Milsap  
and Lt Col Julio R. Barron



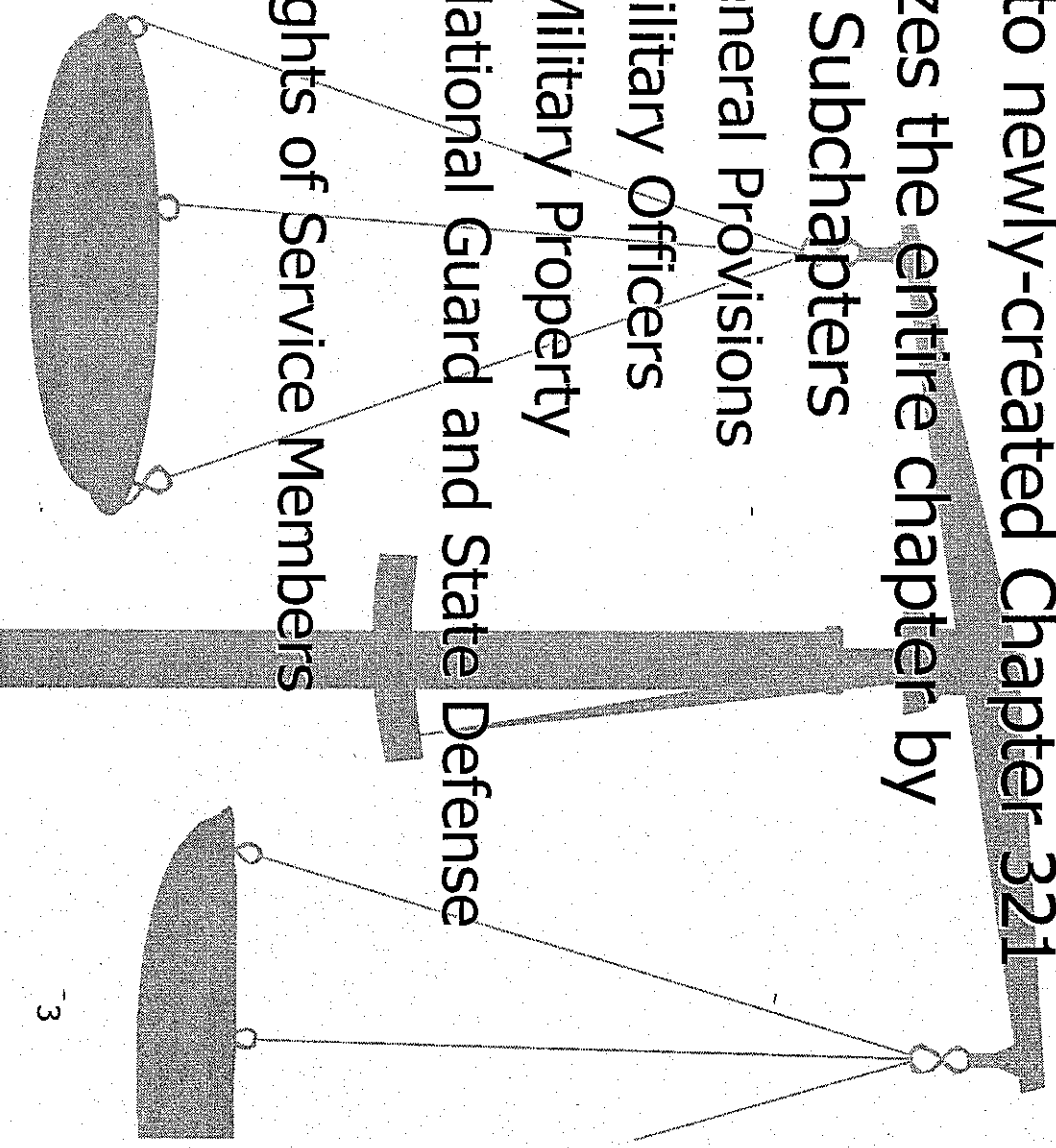
## CREATION OF SPECIAL COMMITTEE

- June 9, 2006 - The Joint Legislative Council established a Special Committee on Recodification of Chapter 21, Military Affairs.
- The Special Committee on Recodification established a Drafting Subcommittee.
- The Drafting Subcommittee met 9 times.
- June 4, 2007 – The Special Committee accepted the Drafting Committee's recommendations.
- June 12, 2007 – The Joint Legislative Council voted to introduce AB 400.



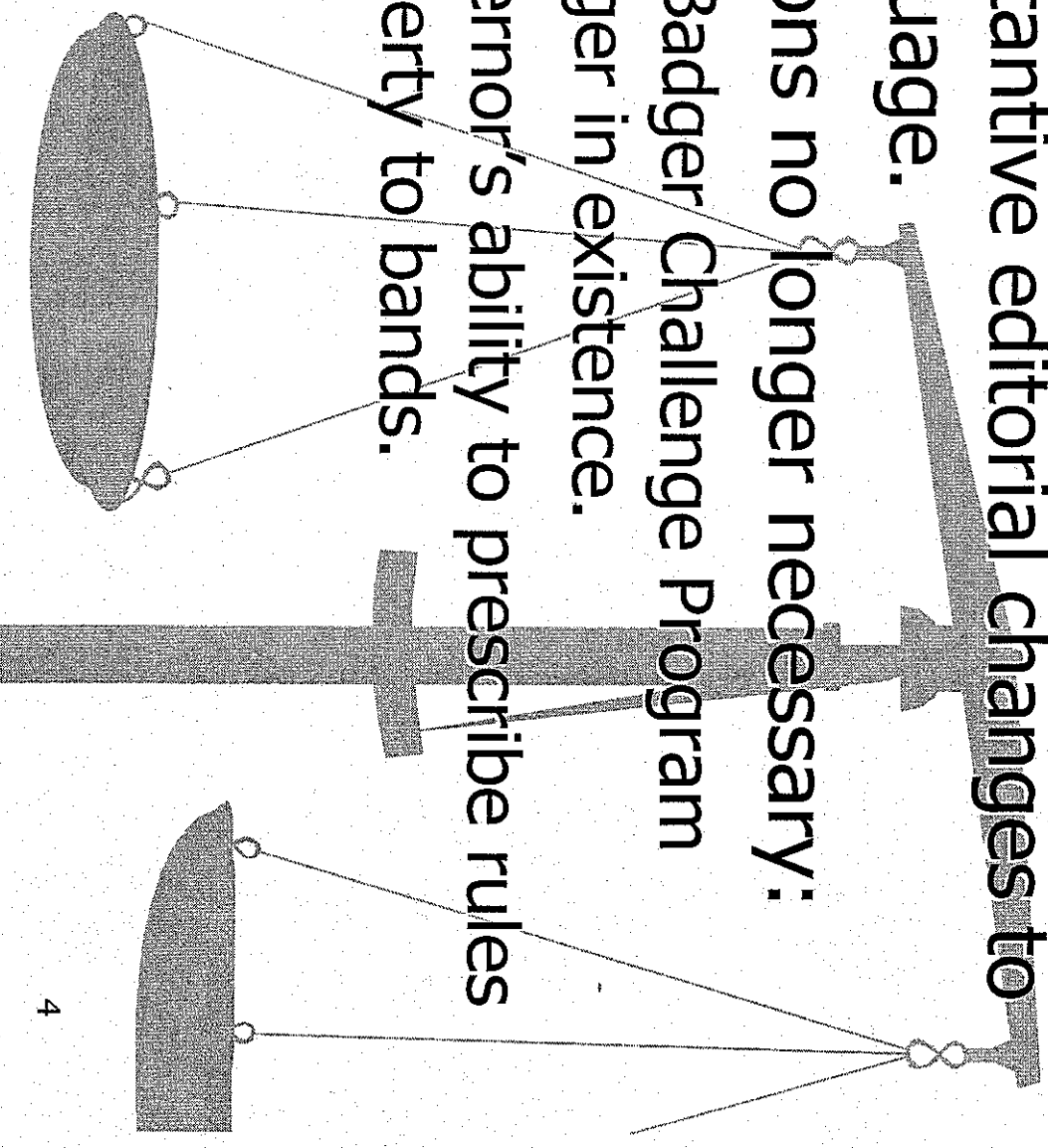
## CHANGES TO CHAPTER 21

- Moves provisions to newly-created Chapter 321
- Logically reorganizes the entire chapter by subdividing into 5 Subchapters
  - Subchapter I – General Provisions
  - Subchapter II – Military Officers
  - Subchapter III – Military Property
  - Subchapter IV – National Guard and State Defense Force
  - Subchapter V – Rights of Service Members



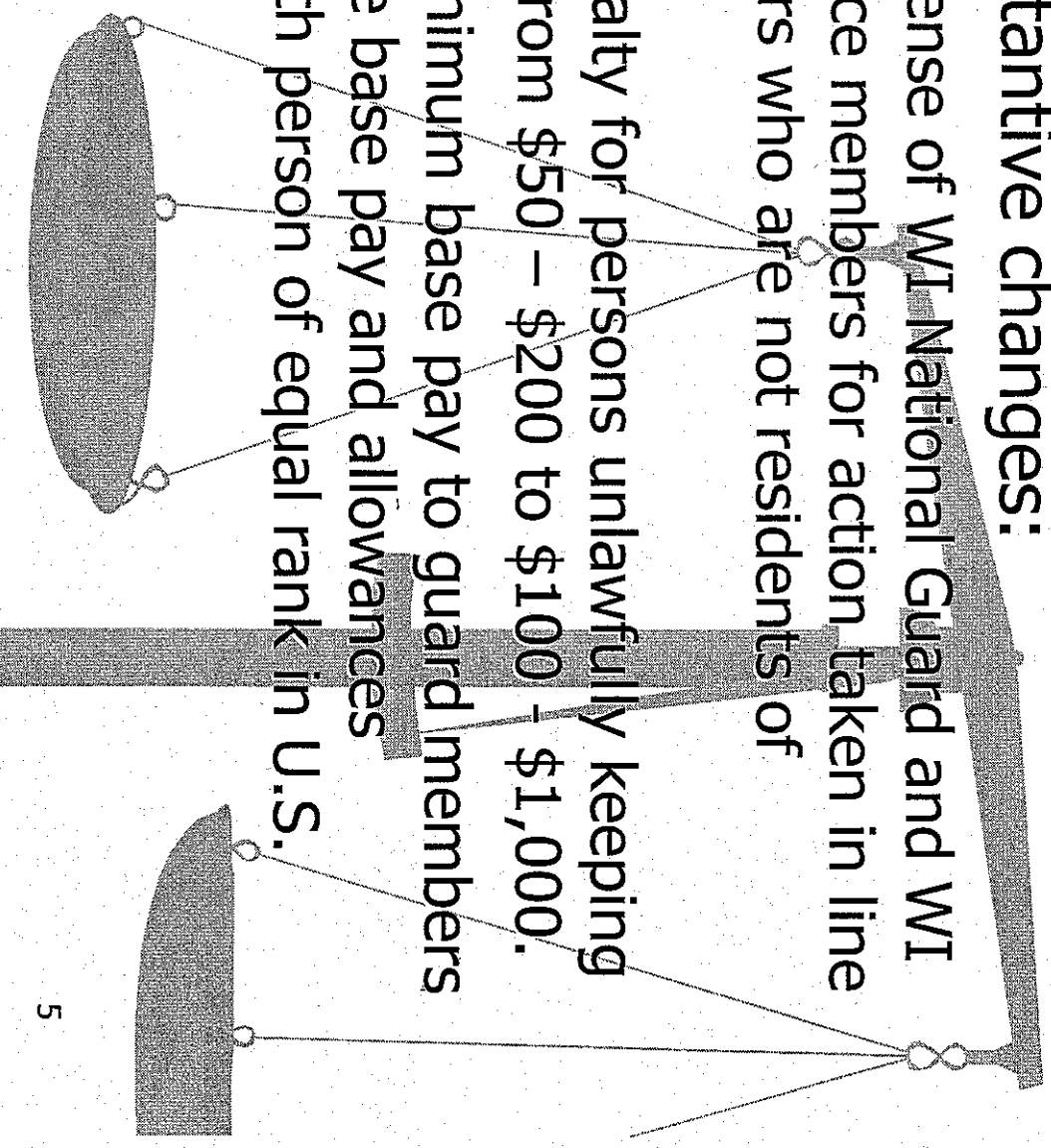
## CHANGES TO CHAPTER 21 (cont'd)

- Makes nonsubstantive editorial changes to modernize language.
- Repeals provisions no longer necessary:
  - Eliminates the Badger Challenge Program which is no longer in existence.
  - Eliminates Governor's ability to prescribe rules for issuing property to bands.



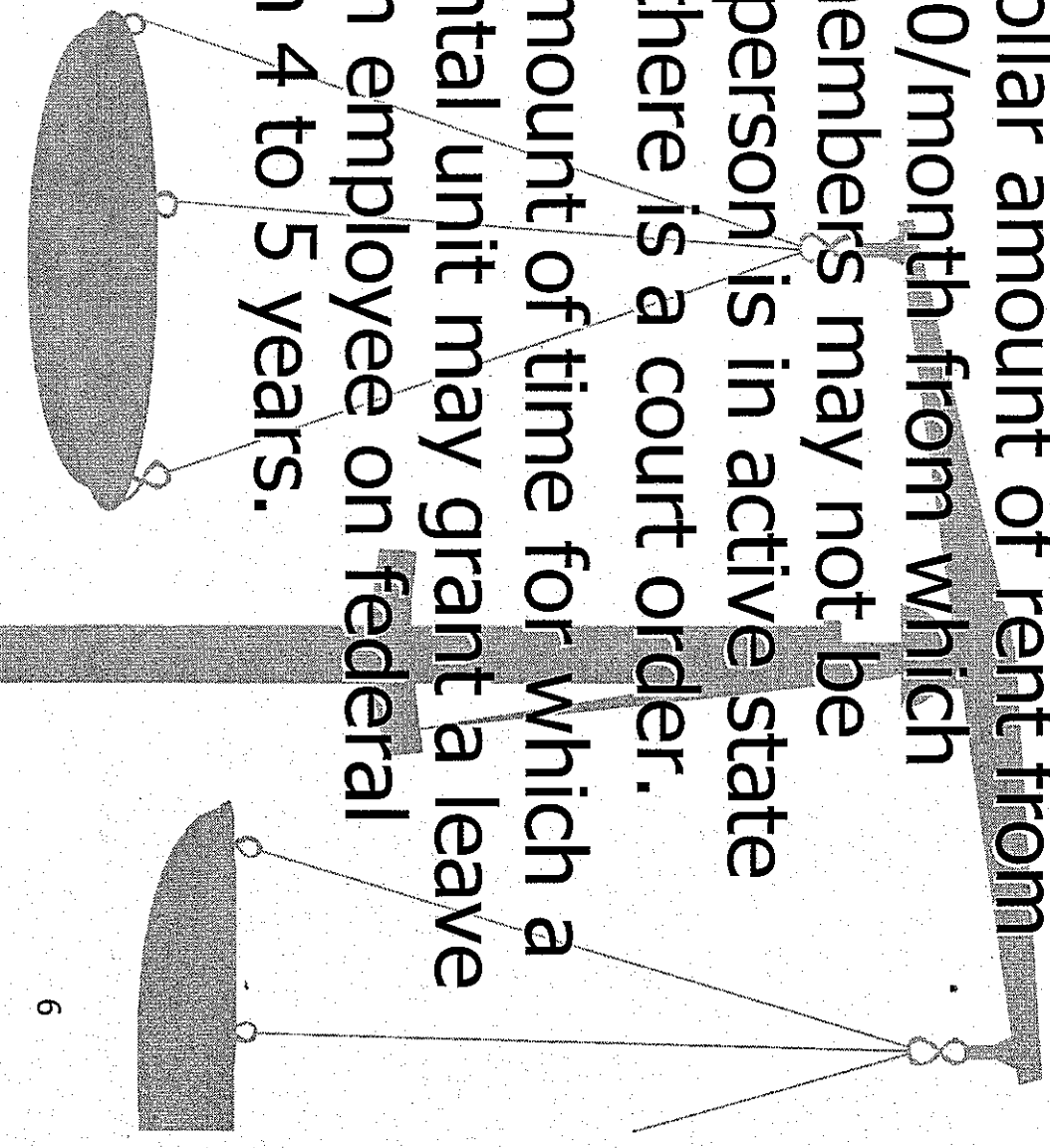
## CHANGES TO CHAPTER 21 (cont'd)

- Makes minor substantive changes:
  - Expands legal defense of WI National Guard and WI State Defense Force members for action taken in line of duty to members who are not residents of Wisconsin.
  - Increases the penalty for persons unlawfully keeping military property from \$50 – \$200 to \$100 – \$1,000.
  - Eliminates \$50 minimum base pay to guard members so that will receive base pay and allowances commensurate with person of equal rank in U.S. armed forces.



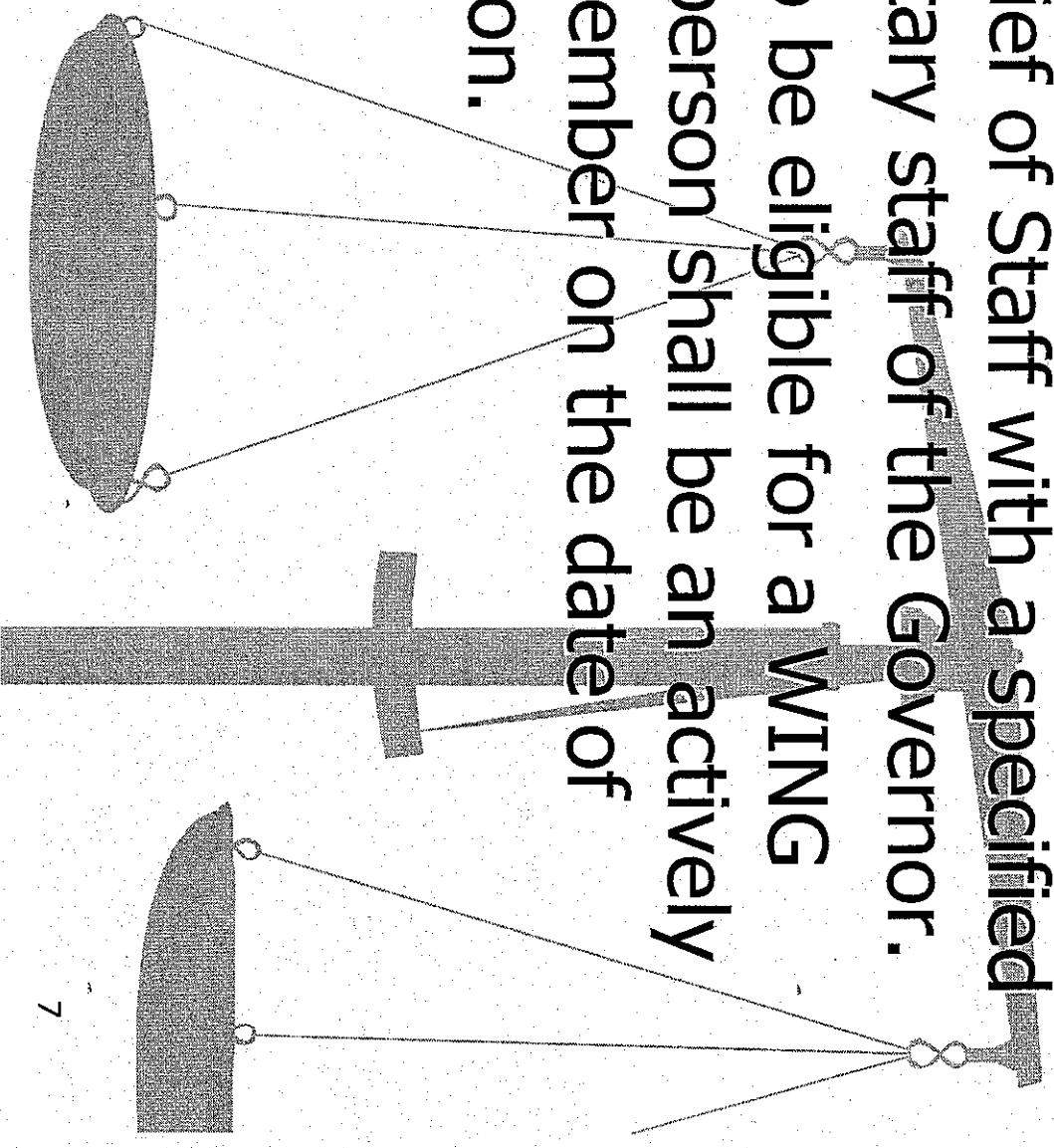
## CHANGES TO CHAPTER 21 (cont'd)

- Increases the dollar amount of rent from \$1,200 to \$2,400/month from which certain family members may not be evicted while a person is in active state service, unless there is a court order.
- Increases the amount of time for which a local governmental unit may grant a leave of absence to an employee on federal active duty from 4 to 5 years.



## CHANGES TO CHAPTER 21 (cont'd)

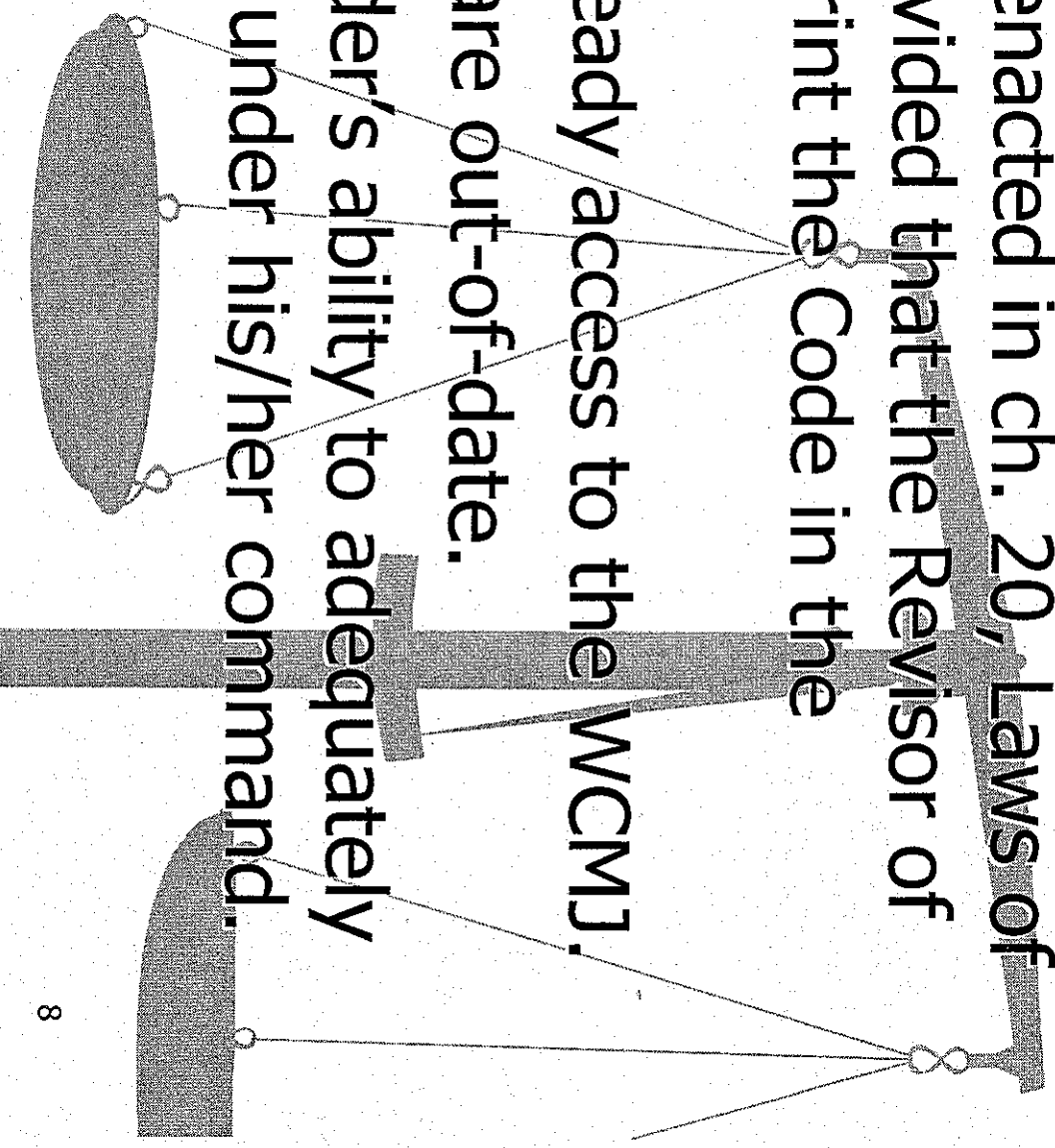
- Adds a Joint Chief of Staff with a specified rank to the military staff of the Governor.
- Requires that to be eligible for a WING tuition grant a person shall be an actively drilling guard member on the date of course completion.





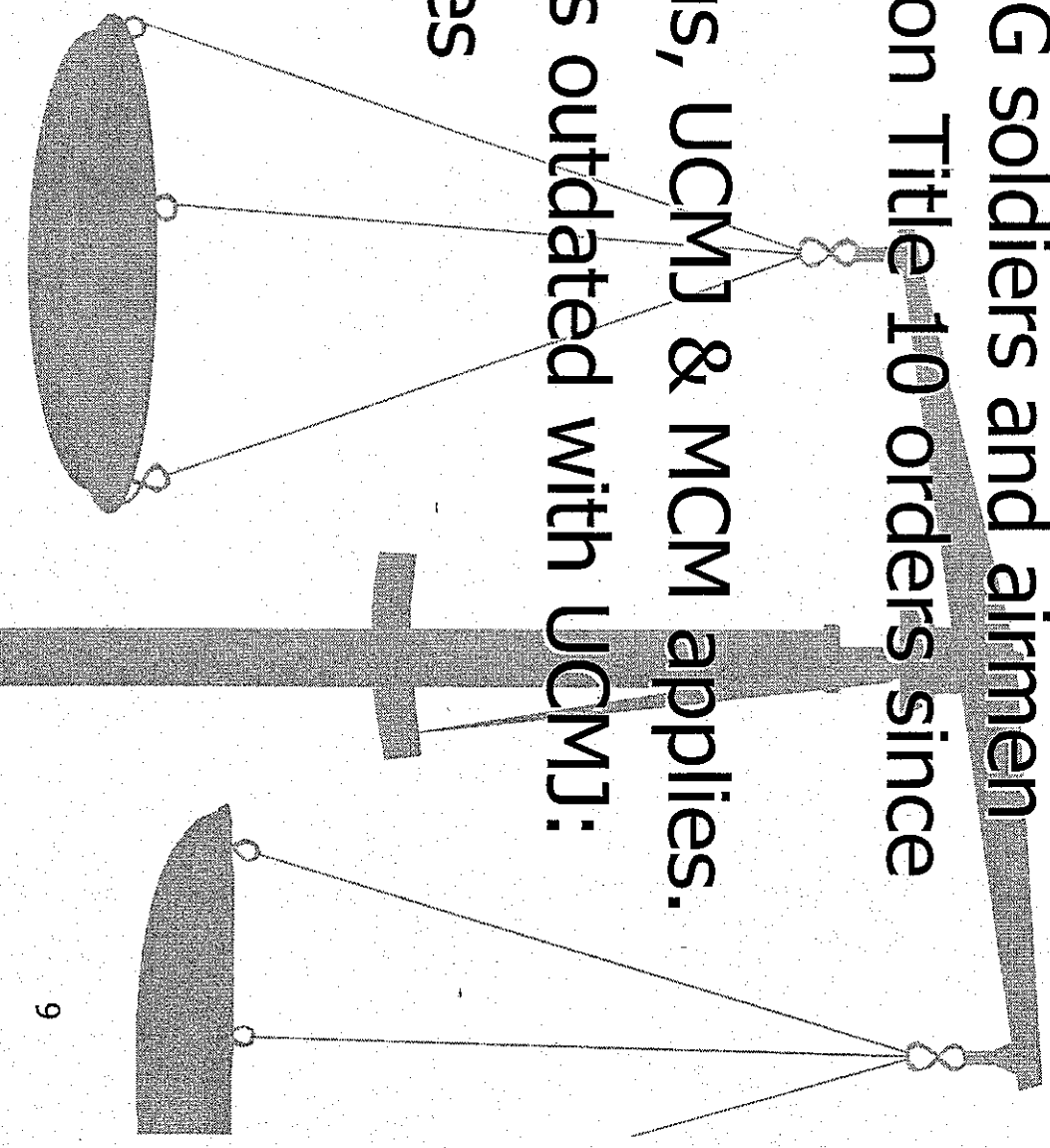
## RECODIFICATION OF WCMJ

- Current WCMJ enacted in ch. 20, Laws of 1969 which provided that the Revisor of Statutes NOT print the Code in the Statutes.
- Difficulty with ready access to the WCMJ.
- Key provisions are out-of-date.
- Limits commander's ability to adequately discipline those under his/her command.



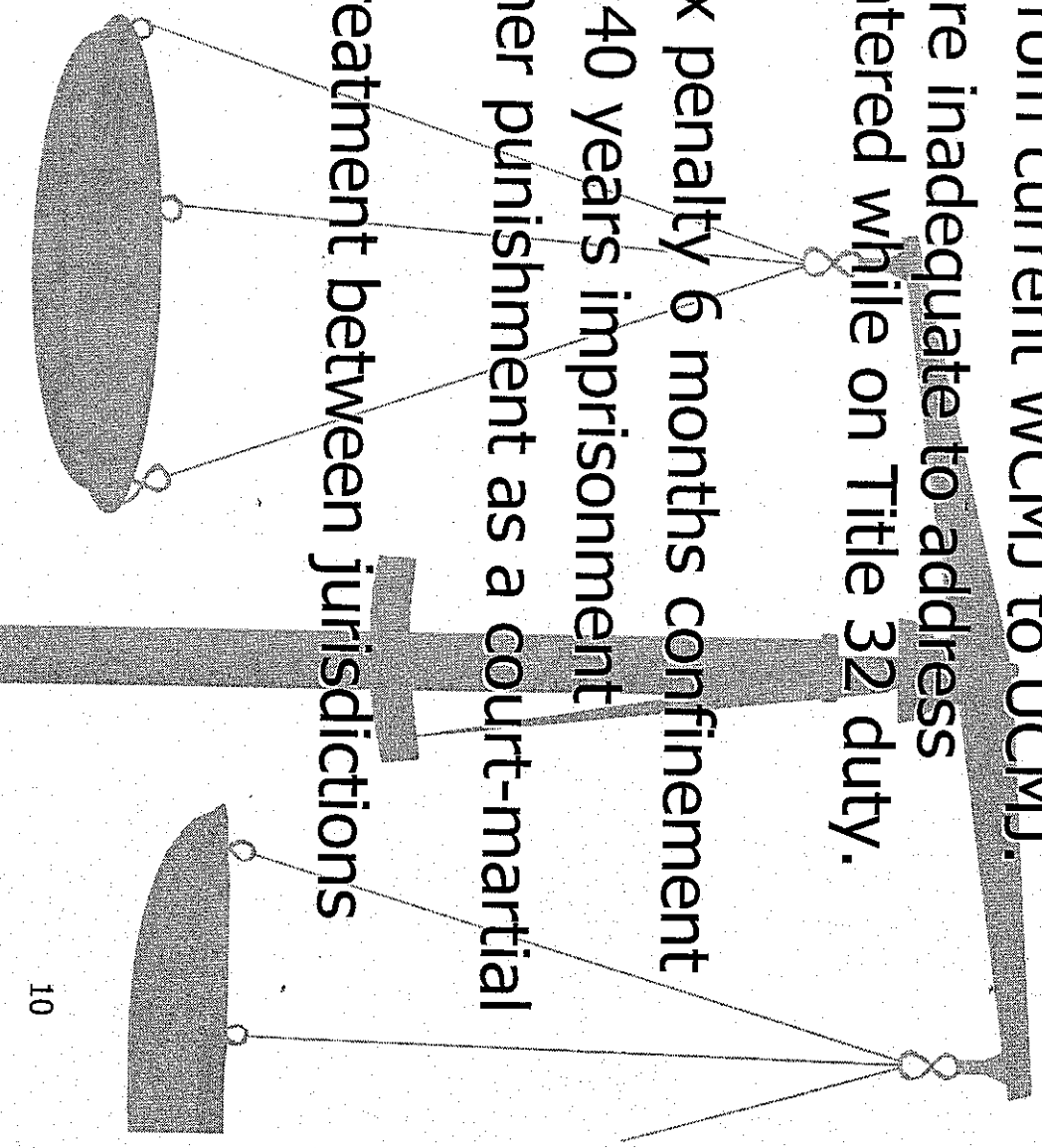
## WCMJ BACKGROUND

- Majority of WING soldiers and airmen have mobilized on Title 10 orders since 9/11.
- In Title 10 status, UCMJ & MCM applies.
- Current WCMJ is outdated with UCMJ:
  - Punitive Articles
  - Penalties
  - Procedures



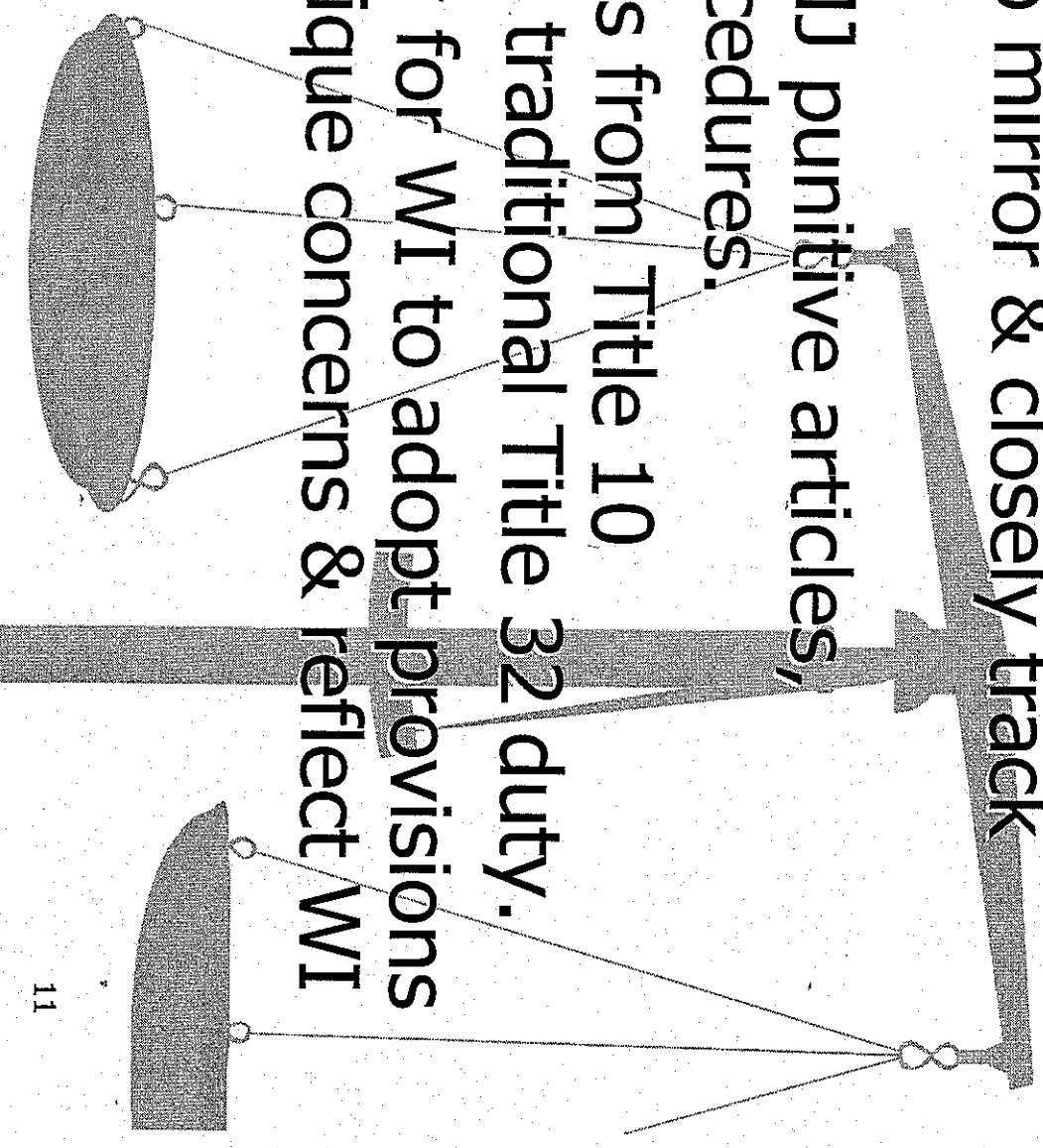
# RESULT

- Difficult transition from current WCMJ to UCMJ.
- Current penalties are inadequate to address misconduct encountered while on Title 32 duty.
- Rape:  
Current WCMJ: Max penalty 6 months confinement  
WI Criminal Court: 40 years imprisonment  
UCMJ: Death or other punishment as a court-martial may direct
- Result: Disparate treatment between jurisdictions



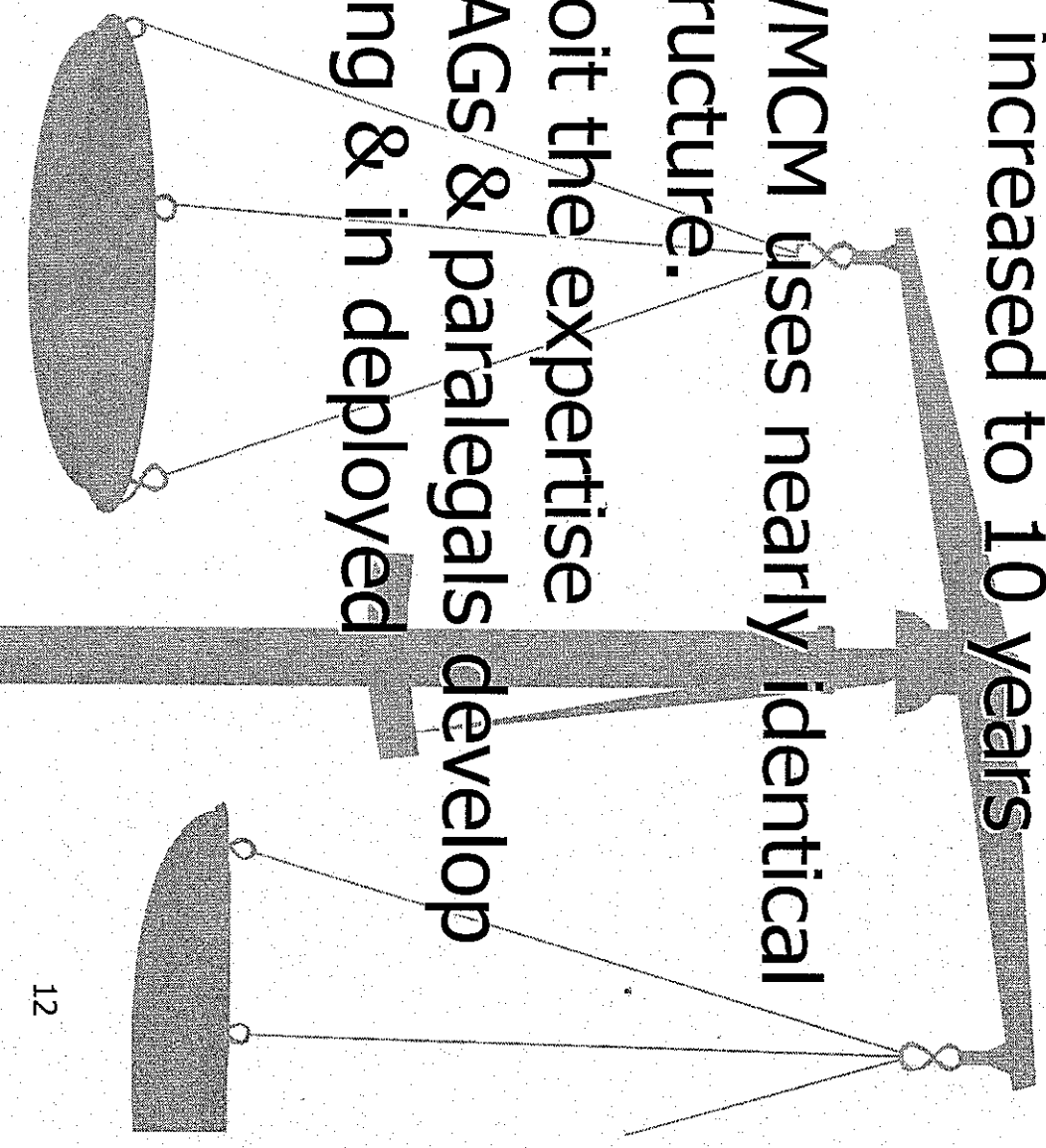
## SOLUTION

- Revise WCMJ to mirror & closely track UCMJ.
- Modernize WCMJ punitive articles, penalties & procedures.
- Eases transitions from Title 10 mobilizations to traditional Title 32 duty.
- Retain flexibility for WI to adopt provisions that address unique concerns & reflect WI values.



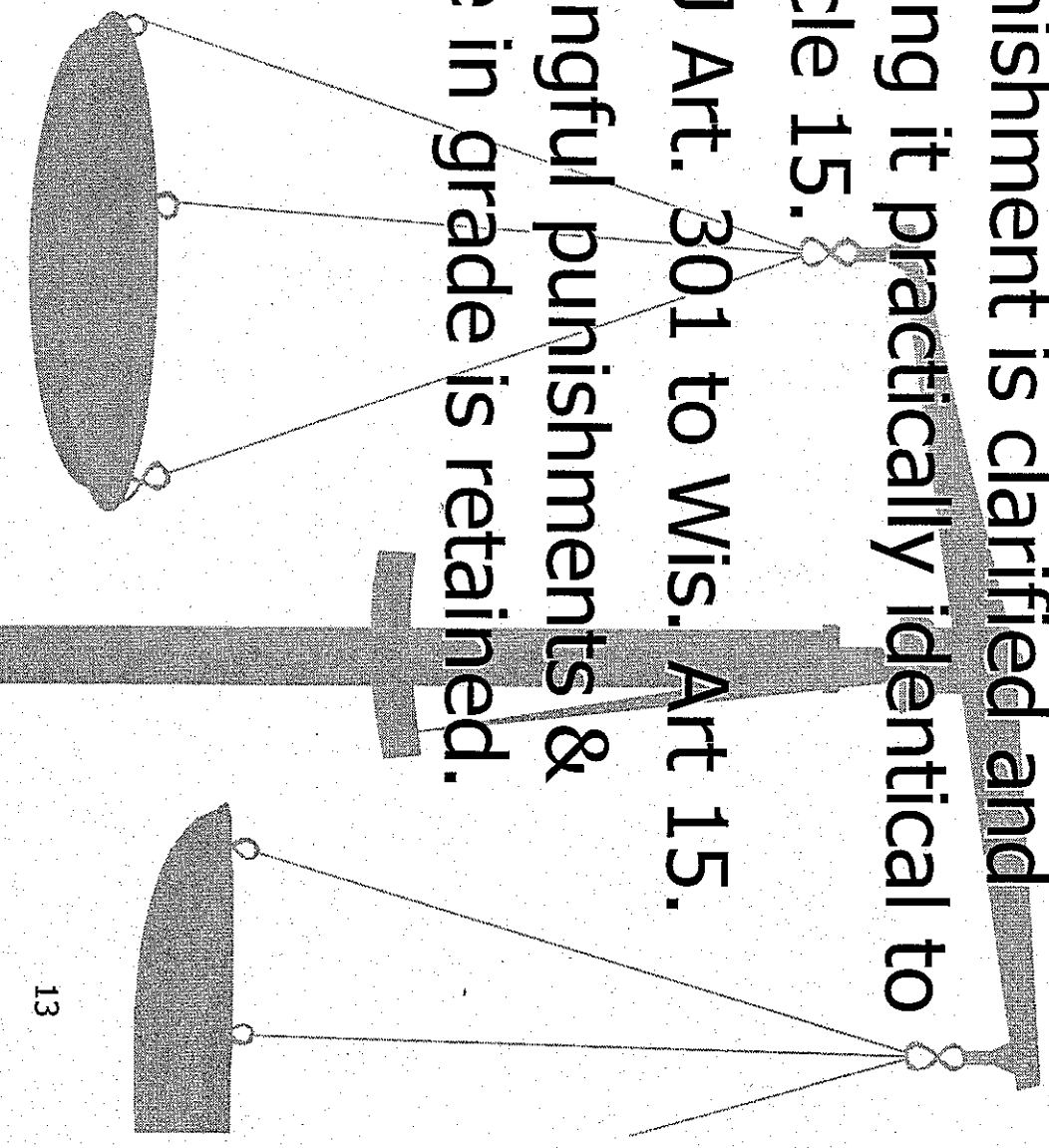
## ADDITIONAL BENEFITS

- WCMJ penalties increased to 10 years imprisonment.
- New WCMJ & WMCM uses nearly identical verbiage and structure.
- Preserve & exploit the expertise Commanders, JAGs & paralegals develop in schools/training & in deployed environments.



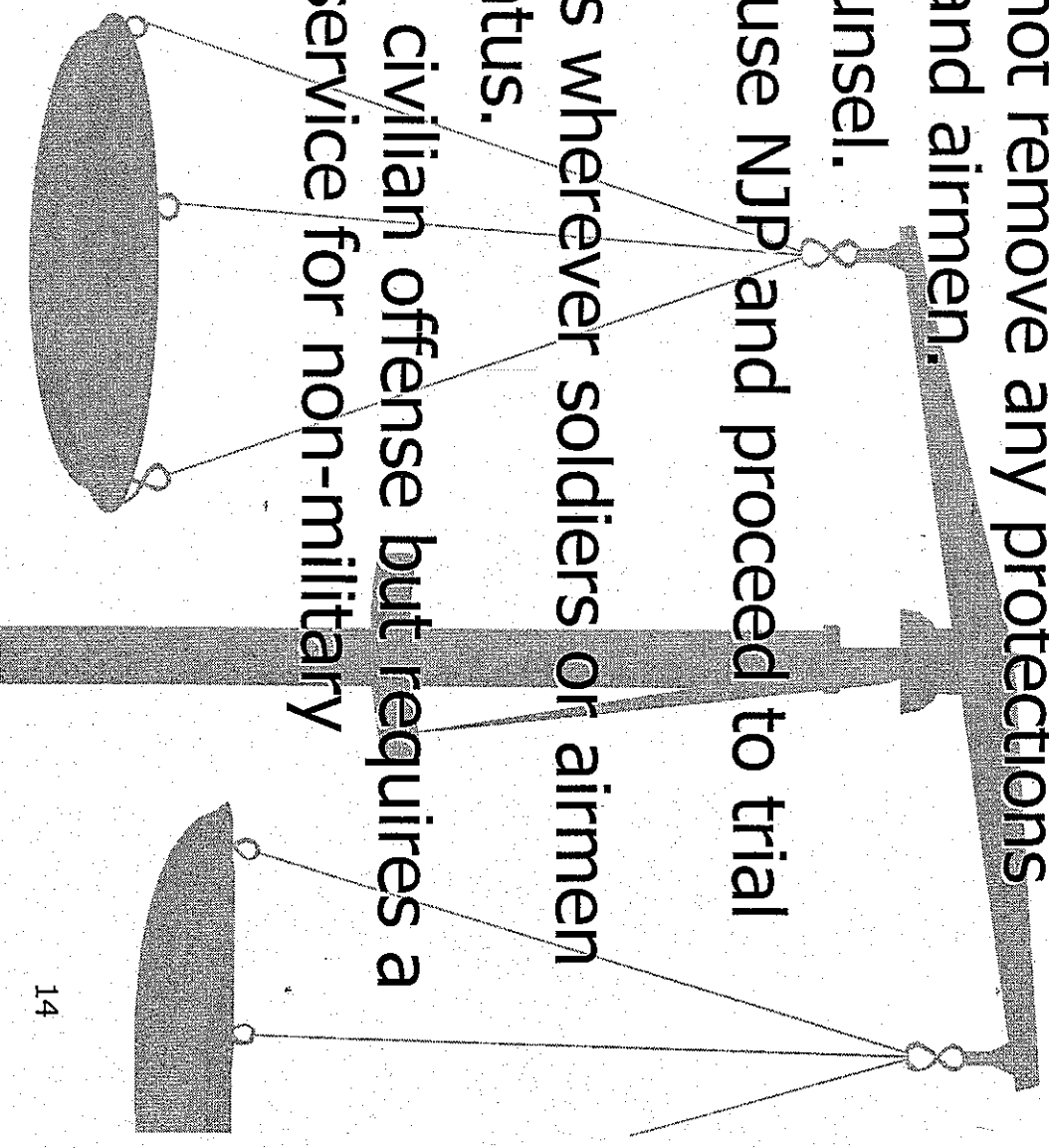
## ADDITIONAL BENEFITS (Cont'd)

- Non-judicial punishment is clarified and enhanced, making it practically identical to active duty Article 15.
- Renamed WCMJ Art. 301 to Wis. Art 15.
- Fines are meaningful punishments & ability to reduce in grade is retained.



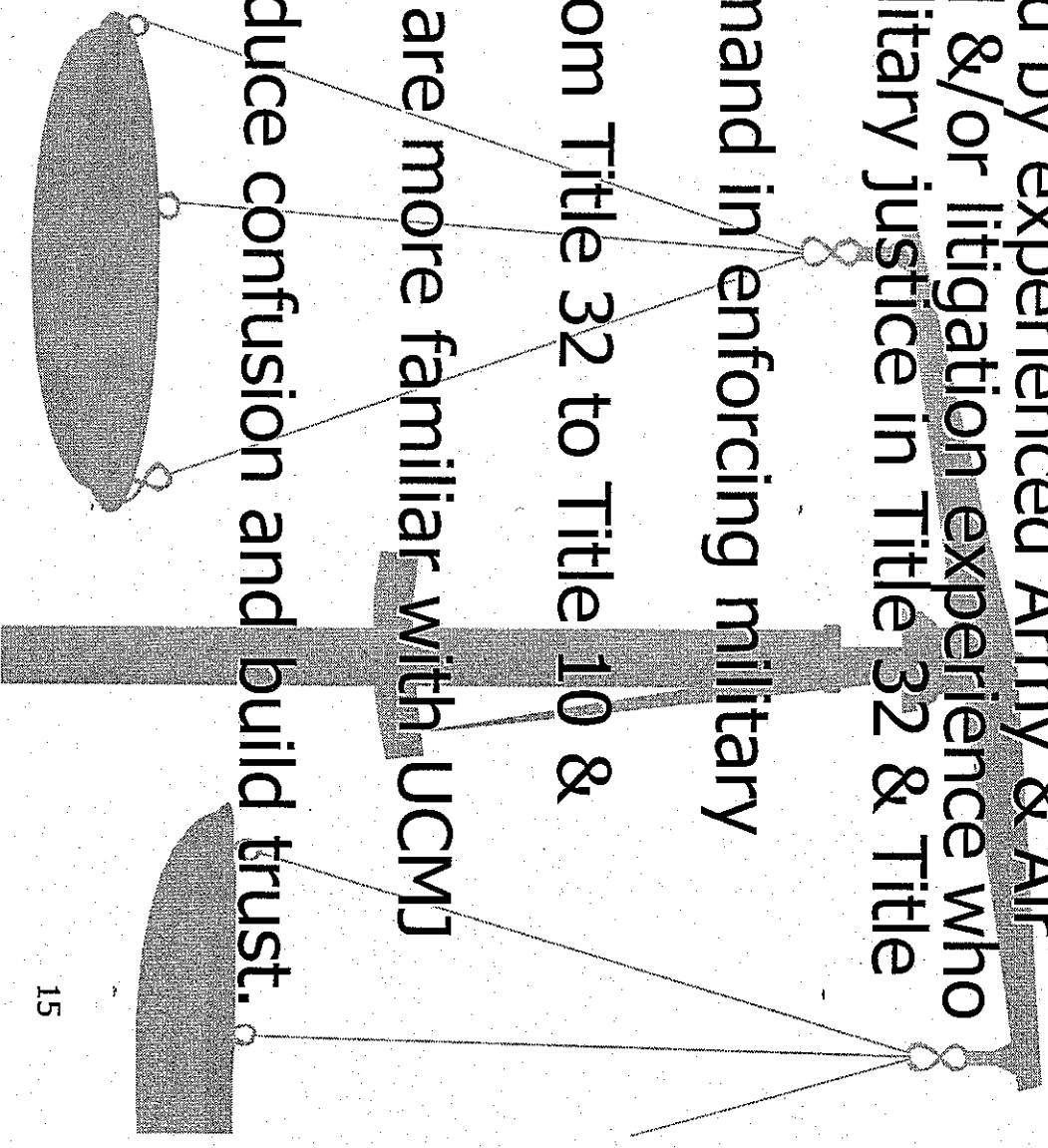
## WISCONSIN VALUES

- New WCMJ does not remove any protections from WI soldiers and airmen.
- Retain right to counsel.
- Retain right to refuse NJP and proceed to trial by court-martial.
- New WCMJ applies wherever soldiers or airmen are on Title 32 status.
- Extends to certain civilian offense but requires a nexus to military service for non-military offenses.



# WCMJ

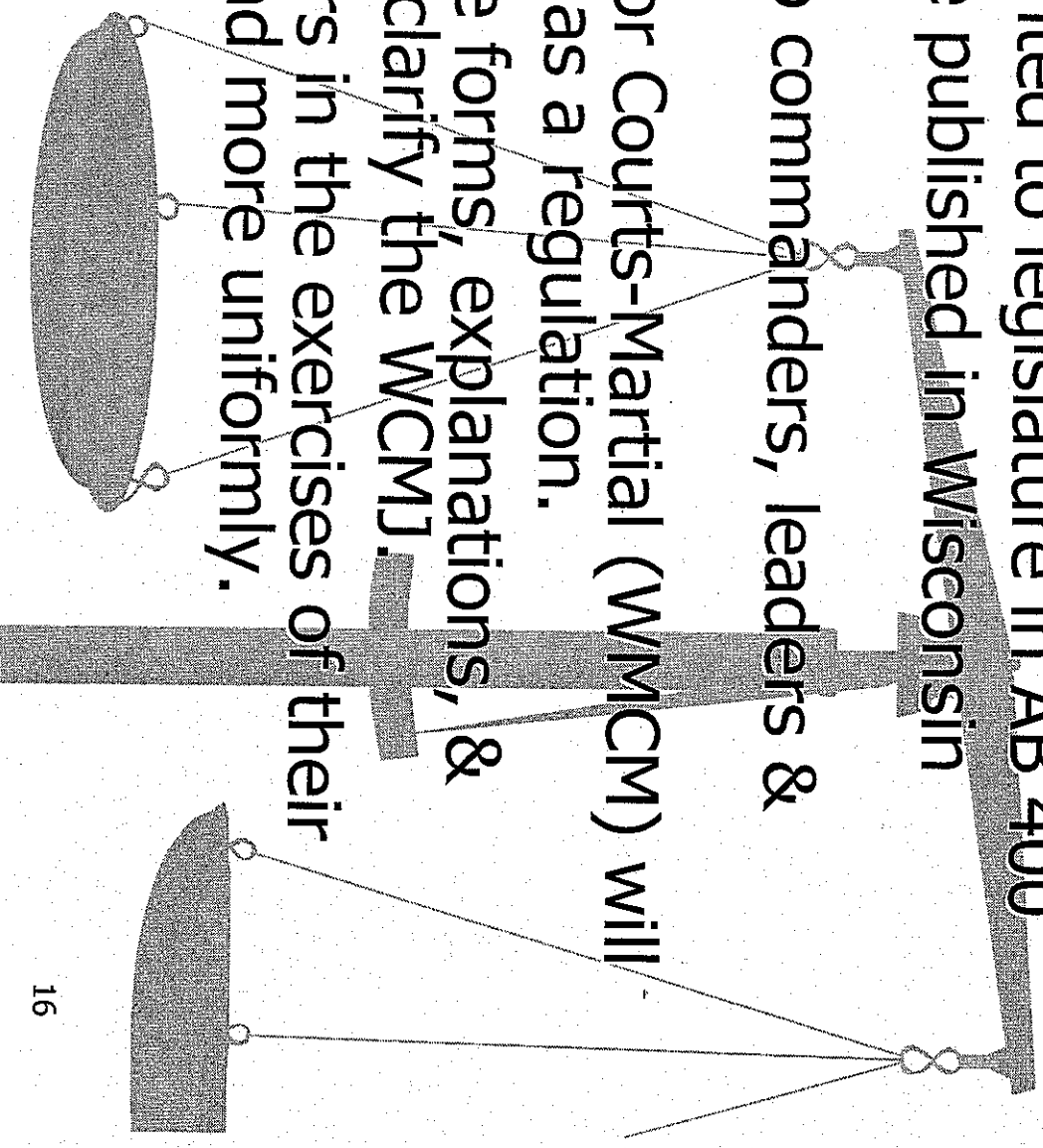
- New WCMJ drafted by experienced Army & Air JAGs with criminal &/or litigation experience who have practiced military justice in Title 32 & Title 10 status.
- Strengthens Command in enforcing military discipline.
- Eases transition from Title 32 to Title 10 & back.
- Soldiers & airmen are more familiar with UCMJ than WCMJ.
- New WCMJ will reduce confusion and build trust.





# WCMJ

- New WCMJ presented to legislature in AB 400
- WCMJ will now be published in Wisconsin Statutes.
- WCMJ available to commanders, leaders & soldiers.
- New WI Manual for Courts-Martial (WMCM) will be issued by TAG as a regulation.
- WMCM will include forms, explanations, & commentary that clarify the WCMJ.
- Assist Commanders in the exercises of their discretion fairly and more uniformly.



# QUESTIONS

Transforming Wisconsin's Code of Military  
Justice & Manual for Courts-Martial

